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March 8, 2012

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Reply Comments for Auction 901, AU Docket No. 12-25

Dear Ms. Dortch:

Attached to this correspondence are Reply Comments for Auction 901, AU Docket No. 12-25 respectfully submitted by the Commonwealth of Kentucky, Office of Broadband Outreach and Development.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melany K. Crawford".

Melany K. Crawford
Deputy General Counsel

Enclosure

cc: Brian Kiser

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	AU Docket No. 12-25
Mobility Fund Phase I Auction 901)	
)	

To: The Commission

REPLY COMMENTS OF OBOD

The Commonwealth Office of Broadband Outreach and Development (OBOD) submits the following reply comments on behalf of the Commonwealth of Kentucky.

Introduction

Having reviewed the comments of other filers also recognizing the formidable challenges of extending wireless service to rural and mountainous areas, and having seen a repeated concern create an emerging theme regarding the proposed use of *road miles covered* as the exclusive basis for awards in the above-referenced auction,¹ OBOD repeats in these reply comments its request that the Commission consider *population served* – and not exclusively *road miles covered* - as a basis for awards in the upcoming 901 Auction.

Discussion

In its USF/ICC Transformation Order,² the Commission cites the 2007 *Recommended Decision* of the Federal-State Joint Board on Universal Service ("Joint Board") recognizing that "the universal availability of mobile services was a national priority"³ and proposing creation of a Mobility Fund to assist build-out costs in unserved areas "where significant population density lacked wireless voice service."⁴ The Commission notes in this discussion that the Joint Board

¹ *Comments of Alaska Communications Systems Group, Inc.*, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012); *Comments of The Alaska Rural Coalition*, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012); *Comments of General Communication, Inc.*, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012); *Comments of The National Association of State Utility Consumer Advocates, Maine Office of The Public Advocate, The New Jersey Division of Rate Counsel, and The Utility Reform Network ("NASUCA") on Competitive Bidding Procedures for Auction 901 And Certain Program Requirements*, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012).

² *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, rel. November 18, 2011 ("USF/ICC Transformation Order")

³ *Id.*, ¶¶ 302

⁴ *Id.*, ¶¶ 302

also “contemplated that funds would be available to construct facilities along roads and highways, to advance important public safety interests.”⁵

OBOD submits for the Commission’s consideration that distribution of the Mobility Fund should indeed be approached in the order put forward by the Joint Board when it proposed to create the Mobility Fund – to those “unserved areas where significant population density lack[s] wireless voice service” first, and then also along roads and highways. Distributing the Fund in the reverse order of going to the roads and highways at the outset necessarily will leave areas of significant population density still lacking wireless voice and broadband service, with no subsequent program on the horizon to provide such service. If the goal of the Fund is to help facilitate service in areas where “significant population density” lacks such service, then the Fund cannot operate in support of its stated goal without providing service to such areas where unserved populations live.

While extending mobile service along the roadways is consistent with a long-term universal service goal of ubiquitous mobile coverage,⁶ this extension of mobile service for in-transit use must not preclude the critical imperative to extend service to communities and unserved areas of significant population density. As NASUCA pointed out in its comments, the number of customers likely to benefit should be a key factor in the value equation, and this indicator is missed in an evaluation based exclusively on road miles covered.⁷ OBOD agrees with NASUCA’s point that it would not seem to make sense to give higher priority to unserved areas with many road miles and little-to-no population, while leaving without service those unserved areas with greater population and fewer road miles.⁸

In its USF/ICC Transformation Order, the Commission provides its conclusion “that the public interest is best served by maximizing the expansion of networks into currently unserved communities given the available budget.”⁹ OBOD submits for the Commission’s consideration that the unserved areas where people live and work are more representative of the referenced *unserved communities* than the roads along which they may travel. A community in this context is generally understood to be a locality where people live and work, rather than an expanse of roads to take them there. Roadways cannot be substitutes for communities.

Attachment A to the *Public Notice* in this proceeding¹⁰ shows that the population living in the identified unserved census blocks in the Commonwealth of Kentucky exceeds 239,000, more than in any other state except neighboring West Virginia. Based on the Commission’s stated conclusion, it seems to OBOD that in the case of Kentucky, the public interest would best be served by maximizing the expansion of networks into those unserved communities where 239,000 Commonwealth residents live. OBOD submits for the Commission’s consideration that it is essential, and more consistent with the Commission’s above stated approach to serving the

⁵ Id., ¶¶ 302

⁶ Id., ¶¶ 295, 298

⁷ *Comments of NASUCA on Competitive Bidding Procedures for Auction 901 And Certain Program Requirements*, page 5, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012).

⁸ Id., page 6

⁹ *USF/ICC Transformation Order*, ¶¶ 319

¹⁰ *Public Notice*, AU Docket No. 12-25, DA 12-121, rel. Feb. 2, 2012

public interest,¹¹ for citizens to gain access to broadband where they live and work daily, than along the roadways where they or others may travel, and perhaps even more so considering the safety issues and controversy associated with use of mobile devices while driving, as there is little controversy associated with the reality that citizens need access to wireless services where they live and work. Citizens currently living in unserved communities are at risk of being left longer-term on the disadvantaged side of the digital divide if current and next generation wireless services are subsidized to bypass them by building out along the roadways for travelers or passersby instead of in the communities where they live and work.

In its *USF/ICC Transformation Order*, the Commission offers its belief that “that using per-road mile bids as a basis for awarding support implicitly will take into account many of the other factors that commenters argue are important -such as business locations, recreation areas, and work sites - since roads are used to access those areas.”¹² On the contrary, OBOD believes that business locations and work sites are more commonly located in communities and population areas than along wide expanses of roads like those that would be favored in an exclusively road-miles-based auction award. Such an approach to selecting qualifying locations for the Mobility fund likely will disadvantage and may even preclude any benefit coming to the economically distressed Appalachian region where a disproportionate number of citizens live in unserved census blocks in states like KY and WV. Such an exclusion of states with rural population areas and mountainous terrain would be contrary to the Commission’s stated goal of bringing “all states to a minimum level of mobile service availability.”¹³ If KY and other states like it cannot be included in the current auction awards, OBOD fears that its 239,000 citizens living in unserved census blocks - where providers have found the business case for providing service to be **unacceptable** - will move more deeply into a longer-lasting digital chasm where they do not have access to what are now considered to be essential communications services in most of the country.

Conclusion

Because OBOD agrees with the Commission *that universal availability of mobile services is a national priority*; because OBOD recognizes with the Commission that the Mobility Fund was created to subsidize construction costs in unserved areas *where significant population density lacks wireless voice service*; because OBOD agrees with the Commission that the public interest is best served by maximizing the expansion of networks *into currently unserved communities*; because OBOD believes that the unserved population areas where people live and work are more representative of *unserved communities* than the roads along which they may travel; because OBOD believes that business locations and work sites where citizens need access to wireless communications services are more commonly located in communities and population areas than along wide expanses of roads like those that would be favored in a road-miles-only based auction

¹¹ *USF/ICC Transformation Order*, ¶¶ 319

¹² *Id.*, ¶¶ 330

¹³ *Id.*, ¶¶ 303

award; and because OBOD recognizes the Commonwealth's 239,000 citizens living in unserved census blocks are at risk of forever being left on the disadvantaged side of the digital divide, OBOD repeats in these reply comments its request that the Commission consider *population served* – and not exclusively *road miles covered* - as an essential basis for awards in the upcoming 901 Auction. Such an approach would provide a better opportunity to extend the reach and benefits of mobile voice and broadband service to significantly more citizens who still do not have access to this essential communications vehicle.